

PATENT

Atty Docket No.: 70003175-1
App. Scr. No.: 09/927,150

REMARKS

Favorable reconsideration of this application is also respectfully requested in view of the claim amendments and following remarks. By virtue of the amendments above, Claims 1, 3, and 6-8 have been amended without prejudice or disclaimer of the subject matter contained therein. Currently, therefore, Claims 1-8 remain pending in the present application, of which, Claims 1, 6 and 7 are independent.

No new matter has been introduced by way of the claim amendments; entry thereof is therefore respectfully requested.

Interview Conducted

Examiner Trujillo is respectfully thanked for the courtesies extended to the undersigned during the personal interview conducted on May 18, 2005. As was discussed during that interview, the present invention as set forth in amended Claims 1, 6, and 7 include that a computer device or an electronic device includes the agent code and the agent record. This differs substantially from the disclosure contained in the documents cited in the previous Official Action for at least the reasons set forth below.

Drawings

The indication that the drawings filed on January 25, 2005 have been accepted is noted with appreciation.

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Claim Rejection Under 35 U.S.C. §102

The test for determining if a reference anticipates a claim, for purposes of a rejection under 35 U.S.C. § 102, is whether the reference discloses all the elements of the claimed combination, or the mechanical equivalents thereof functioning in substantially the same way to produce substantially the same results. As noted by the Court of Appeals for the Federal Circuit in *Lindemann Maschinenfabrick GmbH v. American Hoist and Derrick Co.*, 221 USPQ 481, 485 (Fed. Cir. 1984), in evaluating the sufficiency of an anticipation rejection under 35 U.S.C. § 102, the Court stated:

Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim.

Therefore, if the cited reference does not disclose each and every element of the claimed invention, then the cited reference fails to anticipate the claimed invention and, thus, the claimed invention is distinguishable over the cited reference.

Claims 1-5, 6 and 7 have been rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by the disclosure contained in U.S. Patent No. 5,230,052 to Dayan et al. This rejection is respectfully traversed because the present invention as set forth in independent Claims 1, 6, and 7 and the claims that depend therefrom are patentably distinguishable over the disclosure contained in Dayan et al.

Claim 1, as amended, pertains to, *inter alia*, a method for executing an agent code in a computer device. The computer device is disclosed as including a read only memory where the agent code is saved, an erasable and programmable memory device where an agent record containing data is saved, and a processing device where the agent record is executed.

Claim 6, as amended, pertains to, *inter alia*, a boot-up process for booting up a processing device of a computer device. The computer device includes a read only memory

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where an agent code is saved and an erasable and programmable memory device where a plurality of agent records, a register identification code, and data are saved. The agent code contains a first agent record identification code, and the plurality of agent records each contains a second agent record identification code. In the computer device, the agent code is read and executed to thereby check as to whether a match between a second agent record identification code and the first agent record identification code exists. Moreover, when a match is found to exist, the data of the matching agent record is assigned to a specified register according to the register identification code of the matching agent record.

Claim 7 pertains to, *inter alia*, an electronic device for executing agent code, the electronic device having a read only memory where the agent code is saved, an erasable and programmable memory device where an agent record containing data is saved, and a processing device configured to perform various steps with respect to the agent code and the agent record. More particularly, the processing device is configured to read the agent code from the read only memory, to execute the agent code to thereby initiate reading of the agent record from the erasable and programmable memory, and to execute the agent record.

Dayan et al. differs from Claims 1, 6, and 7 of the present invention because Dayan et al. pertains to a method and apparatus for loading BIOS into a personal computer system from a remote storage location. (Abstract). More particularly, Dayan et al. discloses that a local computer system 10 transmits a request for procurement of BIOS to the remote computer system 40 over a LAN. The remote computer system 40 validates the request and, if the local computer system 10 is deemed appropriate for reception of BIOS, the remote computer system 40 transmits the BIOS. (col. 7, lines 44-69).

As such, Dayan et al. fails to disclose that an agent code is stored in a read only memory of a computer system and that an agent record is stored in an erasable and

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programmable memory device of the computer system. In fact, Dayan et al. actually teaches away from storing agents in a common computer system. For instance, Dayan et al. discusses that there were compatibility problems with the introduction of new personal computer systems having different BIOS families. (col. 2, lines 42-59). Dayan et al. also discusses that these compatibility problems led to the loading of BIOS from a fixed disk, which also had its limitations. (col. 2, line 60-col. 3, line 4). Dayan et al. attempts to overcome these problems through use of LAN station computer systems 10 configured to recover BIOS from a remote computer 40. (col. 6, lines 29-37).

Dayan et al. thus fails to disclose each and every element claimed in Claims 1, 6, and 7 of the present invention. Accordingly, Dayan et al. cannot anticipate Claims 1, 6, and 7 of the present invention. The Examiner is thus respectfully requested to withdraw the rejection of Claims 1, 6, and 7 and to allow these claims.

Claims 2-5 and 8 are also allowable over Dayan et al. at least by virtue of their respective dependencies upon allowable Claims 1 and 7.

Claim Rejection Under 35 U.S.C. §103

The test for determining if a claim is rendered obvious by one or more references for purposes of a rejection under 35 U.S.C. § 103 is set forth in MPEP § 706.02(j):

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. *In re Vaack*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

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Therefore, if the above-identified criteria are not met, then the cited reference(s) fails to render obvious the claimed invention and, thus, the claimed invention is distinguishable over the cited reference(s).

Claims 7 and 8 have been rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent No. 5,960,445 to Tamori et al. in view of U.S. Patent No. 5,230,052 to Dayan et al. This rejection is respectfully traversed because Tamori et al. and Dayan et al., considered singly or in combination fails to disclose the invention as set forth in Claims 7 and 8.

Tamori et al. discloses a set top box (STB) 16 having a flash ROM board 52 and a RAM 53. The flash ROM board 52 is disclosed as having a flash ROM 91 with banks 91a-91c. As shown in FIG. 6 of Tamori et al., the flash ROM 91 contains areas for storing a current BIOS and an old BIOS, either of which may be erased and replaced. (col. 6, lines 52-56). In addition, Tamori et al. discloses that the new BIOS is supplied from a network interface card 57 for BIOS updating and the BIOS updating is performed in response to an instruction to do so from a remote commander 63, such as a server 1-1. (col. 6, lines 38-44).

The Official Action asserts that the language contained in column 6, lines 8-10 describes an agent code stored in read only memory. More particularly, the Official Action asserts that the "data which is first read to the memory when the processor is started up" reads on the agent code. The Official Action also asserts that although Tamori et al. does not disclose that the "data which is first read..." is stored in read only memory, that Tamori et al. may be modified based upon the Dayan et al. disclosure to make up for this deficiency.

Initially, Tamori et al. does not appear to disclose that the "data which is first read..." is executable. Instead, the "data" appears to be just data and does not appear to be executed

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by the CPU 51. As such, it appears that Tamori et al. fails to disclose that an agent code is executed to thereby initiate the reading of an agent record from an erasable and programmable memory device as set forth in Claim 7.

Secondly, the proposed modification of Tamori et al. to include a read only memory, as allegedly disclosed in Dayan et al., is improper and would destroy the intended purpose of Tamori et al. Tamori et al. discloses a flash ROM 91 instead of a ROM because the information stored in the flash ROM 91 must be erasable and re-writable. (See, for instance, col. 6, lines 52-56, stating "[i]n step S3, the CPU 51 erases the contents, i.e., an old version BIOS...and stores the current version BIOS in the bank B 91b...". See also, the steps illustrated in Figures 10-18). Therefore, if the flash ROM 91 were replaced with the read only memory disclosed in Dayan et al. as proposed in the Official Action, Tamori et al. would no longer be capable of erasing and replacing old versions of BIOS with new versions of BIOS, which would clearly destroy the intended purpose of Tamori et al.

For at least the foregoing reasons, the Official Action has failed to establish a *prima facie* case of obviousness based upon the disclosures contained in Tamori et al. and Dayan et al. It is therefore respectfully submitted that the present invention as set forth in Claim 12 is patentably distinguishable over the disclosure contained in Tamori et al. and Dayan et al., considered singly or in combination.

The Examiner is thus respectfully requested to withdraw the rejection of Claim 7 and to allow this claim. Claim 8 depends upon allowable Claim 7 and is also allowable over Tamori et al. and Dayan et al. at least by virtue of its dependency.

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Conclusion

In light of the foregoing, withdrawal of the rejections of record and allowance of this application are earnestly solicited.

Should the Examiner believe that a telephone conference with the undersigned would assist in resolving any issues pertaining to the allowability of the above-identified application, please contact the undersigned at the telephone number listed below. Please grant any required extensions of time and charge any fees due in connection with this request to deposit account no. 08-2025.

Respectfully submitted,

Thiam Wah Loh et al.

Dated: May 26, 2005

By



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